



[3410-11- P]

DEPARTMENT OF AGRICULTURE

Forest Service

Beaverhead-Deerlodge National Forest, Montana; Supplemental Environmental Impact Statement for the Beaverhead-Deerlodge National Forest Land and Resource Management Plan to Comply with a District of Montana Court Order (Temporary Roads)

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: The Beaverhead-Deerlodge National Forest will prepare a Supplemental Environmental Impact Statement (SEIS) to the 2009 Beaverhead-Deerlodge National Forest Land and Resource Management Plan (Forest Plan) environmental analysis in response to a May 24, 2013 Order from the U.S. District Court for the District of Montana. The Court directed the Forest Service to "...supplement its EIS for the Forest Plan to explain or support, if possible, its decision to exclude temporary roads from the road density objectives...." The supplement will address the Forest Plan Goal for Wildlife Security and density of roads and trails open to motorized use displayed in Tables 13 and 14 on pages 45-47 of the Forest Plan.

DATES: Scoping is not required for supplements to environmental impact statements (40 CFR 1502.9(c)(4)). Review and comments will be solicited once the Draft SEIS is filed with EPA. The Draft SEIS is expected in February, 2014.

ADDRESSES: The line officer responsible for the decision is the Beaverhead-Deerlodge National Forest Supervisor, 420 Barrett Street, Dillon, MT 59725.

FOR FURTHER INFORMATION CONTACT: Jan Bowey at 406-842-5432 or email jbowey@fs.fed.us. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The Forest Plan provides management direction for activities on the Beaverhead-Deerlodge National Forest for the next 10 to 15 years, including direction on eight revision topics (vegetation, wildlife, aquatic resources, recreation and travel management, fire management, livestock grazing, timber and recommended wilderness). In 2012, Native Ecosystems Council and Alliance for the Wild Rockies filed a complaint in U.S. District Court for the District of Montana (case 9:12-cv-00027-DLC) alleging the Forest Plan failed to ensure elk viability because the Forest Service did not disclose and consider the best available science in its analysis of road density. In a May 24, 2013 Order, the U.S. District Court for the District of Montana found the Forest Service "...complied with the general requirements of the 1982 viability regulation for elk and adequately disclosed the science upon which it relied to determine appropriate road density levels for areas with different management goals.... However, the Forest Service did not explain or support its decision to exclude temporary roads from the road density objectives." Therefore, there is a need to evaluate the effects of temporary roads to comply with the court's order.

Proposed Action

We are uncertain if there is a need to change management direction in the Forest Plan. A determination will be made based upon the analysis of the effects of temporary road construction and use. The Draft SEIS may or may not propose an amendment to the Forest Plan.

We expect to have a Draft SEIS available for public review and comment in February, 2014. The comment period for the Draft SEIS will be 90 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register. We believe, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could have been raised at the draft environmental impact statement stage but are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Circ. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this analysis participate by the close of the 90-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final SEIS.

Nature of Decision to be Made

Based on the SEIS, the Forest Supervisor will determine whether or not additional management direction will be incorporated into the Beaverhead-Deerlodge National Forest Land and Resource Management Plan.

Dated: August 29, 2013.

Timothy Garcia,

Acting Forest Supervisor.

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